

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN MORALES-MORAN,

Defendant.

Cr. No. 12-4444GT

ORDER

On February 24, 2013, this Court ordered further briefing on the issue of Defendant's, Juan Morales-Moran ("Mr. Morales"), Objection to the Presentence Report. After reviewing Mr. Morales' Supplemental Sentencing Briefing, the Court requires further briefing, from both Mr. Morales and the Government, on whether or not Mr. Morales' removal on May 6, 2003 was pursuant to a valid removal order.

The Court is aware that, under current law, violation of § 11352 is not categorically an aggravated felony and the modified categorical approach must be utilized. However, Mr. Morales was ordered removed in 2003. Mr. Morales, in his supplemental brief, merely states that at that time the Government did not prove that his conviction was an aggravated felony. It is not clear from the record that the Government was required to do so in 2003. Mr. Morales also states that "the documents fail to prove that Mr. Morales-Moran's conviction is an aggravated felon."

1 However, Mr. Morales failed to submit those documents. It is also unclear from the record that
2 Mr. Morales "exhausted all administrative remedies" and the underlying deportation proceedings
3 "improperly deprived him of judicial review." Hence, the Court requires additional briefing and
4 supporting documents on the issue of the validity of Mr. Morales' prior 2003 removal order.
5 Accordingly,

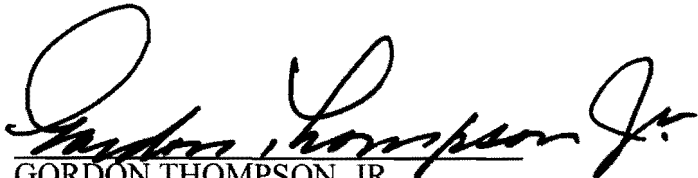
6 **IT IS ORDERED** that Mr. Morales' second supplemental brief is due no later than March
7 13, 2013.

8 **IT IS FURTHER ORDERED THAT** the Government's brief is due no later than March
9 20, 2013.

10 **IT IS FURTHER ORDERED THAT** the sentencing date is reset for April 3, 2013.

11 **IT IS SO ORDERED.**

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14 3-4-13
15 date

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15 GORDON THOMPSON, JR.
United States District Judge

16 cc: All counsel and parties without counsel
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